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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,588	11/26/2003	Adrian B. Chernoff	GP-303033	7594

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KATHRYN A. MARRA
General Motors Corporation
Legal Staff, Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

EXAMINER	
EDELL, JOSEPH F	
ART UNIT	**PAPER NUMBER**
3636	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/723,588	CHERNOFF ET AL.	
	Examiner	Art Unit	
	Joseph F. Edell	3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 May 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) *3,5-8,10,12,14 and 17-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,4,9,11,13,15,16 and 21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 November 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: "the back top panel portion is on a first side of the third bend and the back bottom panel portion" (lines 12-13) should read --the back bottom panel portion is on a first side of the third bend and the lower seat bottom panel portion--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1, 2, 4, 13, and 16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 3,669,499 to Semplonius et al.

Semplonius et al. disclose a seat that appears to teach all the limitations recited in claims 1, 2, 4, 13, and 16. Semplonius et al. show a seat having a seat frame of a top panel portion 10 (see Fig. 1) and a bottom panel portion 20 with a surface juxtaposed with a surface of the top panel portion, a lower seat portion of the panel portions, and a back portion of the panel portions wherein the lower seat portion has top and bottom panel portions, the back portion has top and bottom panel portions, the top

panel and bottom panel portions are each unitary, one-piece panels, the lower seat portion has a lower seat bottom panel portion and a matable lower seat top panel portion, the back portion has a back bottom panel portion and a matable back top panel portion, one of the lower seat portion and the back portion is adapted to receive a seat cushion 40 (Fig. 6), the back portion is formed with an integral flange 17 (Fig. 8), and the integral flange is connectable with respect to the other of the back portion to partially join together. See Diagram A identifying the panel portions of the seat taught by Semplonius et al. Semplonius et al. teaches a seat that appears to be the same as, or an obvious variant of, the seat set forth in the product-by-process claim 1 although produced by a different process.

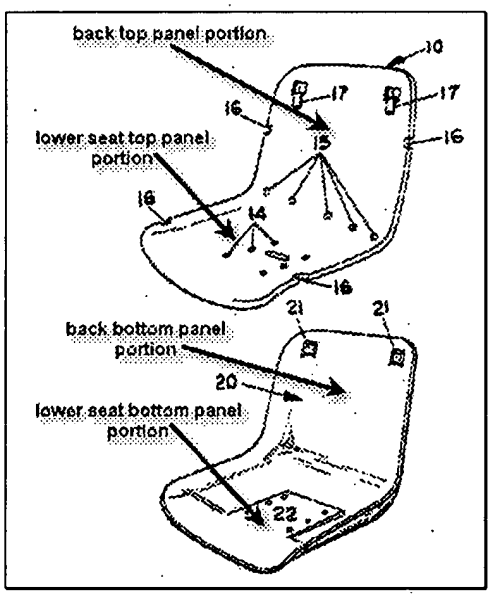

Diagram A - Annotated Figure 1 of Semplonius et al.

4. Claims 1, 2, 4, 9, and 15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 5,913,571 to Dystra et al.

Dystra et al. disclose a vehicle seat that appears to teach all the limitations recited in claims 1, 2, 4, 9, and 15. Dystra et al. show a vehicle seat having a unitary lower seat portion 28 (Fig. 7) with matable lower seat bottom and lower seat top panel portions, a back portion (Fig. 7) with matable back bottom and back top panel portions, a headrest 84 (Fig. 7) on the back portion, a first bend (Fig. 7) between the lower seat top panel portion and back top panel portion, a second bend 32 (Fig. 7) between the lower seat bottom panel and the lower seat top panel portion, and a third bend (Fig. 7) between the back bottom panel and the lower seat bottom panel wherein the lower seat portion and the back portion each has a top panel portion and a bottom panel portion with a surface juxtaposed with a surface of the top panel portion, and the lower seat portion and the back portion are cooperatively configured to form a seat frame. Dystra et al. teaches a vehicle seat that appears to be the same as, or an obvious variant of, the vehicle seat set forth in the product-by-process claims 1 and 21 although produced by a different process. See *In re Marosi*, 710 F.2d 799, 218 USPQ 289 (Fed. Cir. 1983) and *In re Thorpe*, 777 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985). Also, see MPEP § 2113.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dystra et al. as applied to claims 1, 2, 4, 9, and 15 above, and further in view of U.S. Patent No. 5,988,757 to Vishey et al.

Dystra et al. disclose a vehicle seat that is basically the same as that recited in claim 11 except that the seat frame lacks a matable seat track member, as recited in the claim. Vishey et al. show a vehicle seat similar to that of Dystra et al. wherein the vehicle seat has a seat frame 30 (Fig. 6) and a matable seat track member (see column 6, lines 3-6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat of Dystra et al. such that the seat frame is matable with a seat track member to be movable along the seat track member relative to a vehicle, such as the vehicle seat disclosed in Vishey et al. One would have been motivated to make such a modification in view of the suggestion in Vishey et al. that the seat track member allows for movement and proper energy dissipation in the event of a collision.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dystra et al. as applied to claims 1, 2, 4, 9, and 15 above, and further in view of U.S. Patent No. 4,266,707 to Rossman.

Dystra et al. disclose a vehicle seat that is basically the same as that recited in claim 21 except that the lower seat portion and the back portion lack corrugated bottom panel portions, as recited in the claim. Rossman shows a seat similar to that of Dystra et al. wherein the lower seat portion has a corrugated panel portion 50 (see Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle seat of Dystra et al. such that the lower seat bottom panel portion and the back bottom panel portion is corrugated, such as the seat disclosed in Rossman. One would have been motivated to make such a

modification in view of the suggestion in Rossman that the projection 56 on the underside of the seat provide additional strength for boat seats.

Response to Arguments

7. Applicant's arguments filed 16 May 2005 have been fully considered but they are not persuasive. Applicant argues that Semplonius et al. fails to teach a bottom panel portion that has a surface that is substantially juxtaposed with a surface of the top panel portion, as recited in amended claim 1. However, Figure 8 of Semplonius et al. shows a surface of the back top panel portion juxtaposed with a surface of the back bottom panel portion via the mating interconnection of the flange 18 of the back top panel portion with the well 21 of the back bottom panel portion. Next, Applicant argues that Dystra et al. fails to teach a bottom panel portion with a surface substantially juxtaposed with a surface of a top panel portion. Examiner reasonably interprets juxtaposed as being adjacent, as defined in *Merriam-Webster's Collegiate Dictionary, Tenth Edition*. Figure 7 of Dystra et al. shows that the lower seat bottom panel portion is adjacent to the lower seat top panel portion and the back portion bottom panel portion is adjacent to the back portion top panel portion. Therefore, Dystra et al. teach a vehicle seat with a top panel portion and a bottom panel portion with a surface substantially juxtaposed with a surface of the top panel portion. Next, Applicant argues that Dystra et al. fail to teach a corrugated panel portion. See the above rejection for motivation to combine the teachings of Dystra et al. in view of Rossman. Lastly, Appliant argues that the combination of Dystra et al. in view of Vishey et al. is improper because there is no

apparent way to mate the seat frame of Dystra et al. with a seat track member, as taught in Vishey et al. However, both Dystra et al. and Vishey et al. teach relatively planar seat frame bottoms wherein one of ordinary skill in the art at the time the invention was made would have related the planar seat frame bottoms of both references such that Dystra et al. has a seat track member as recited in claim 11. The combination of Dystra et al. in view of Vishey et al. would not render the seat inoperable of its intended purpose. It would provide an additional feature that would allow the seat to be adjusted for users of different height when the seat is in the folded bench-style, as shown in Figure 2.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JE
August 23, 2005

Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600